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Systems, Inc., Zaki Rakib, Jerry D. Chase, Mark A.  
Richman, Edward Lopez, Ray Fritz, Carol  
Lustenader, Matthew Miller, Shlomo Rakib, Doug  
Sabella, Christopher Schaepe, Mark Slaven, Lewis  
Solomon, Howard W. Speaks, Arthur T. Taylor, and  
David Woodrow

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ADRIAN MONGELI, Individually, And On  
Behalf Of All Others Similarly Situated,

Plaintiffs,

v.

TERAYON COMMUNICATION  
SYSTEMS, INC., ZAKI RAKIB, JERRY D.  
CHASE, MARK A. RICHMAN, EDWARD  
LOPEZ, RAY FRITZ, CAROL  
LUSTENADER, MATTHEW MILLER,  
SHLOMO RAKIB, DOUG SABELLA,  
CHRISTOPHER SCHAEPE, MARK  
SLAVEN, LEWIS SOLOMON, HOWARD  
W. SPEAKS, ARTHUR T. TAYLOR,  
DAVID WOODROW, and ERNST &  
YOUNG, LLP,

Defendants.

CASE NO.: 3-06-CV-03936 MJJ

**CLASS ACTION**

**REQUEST FOR JUDICIAL NOTICE IN  
SUPPORT OF REPLY IN SUPPORT OF  
MOTION TO DISMISS AMENDED CLASS  
ACTION COMPLAINT FOR VIOLATIONS  
OF FEDERAL SECURITIES LAWS BY  
TERAYON AND THE INDIVIDUAL  
DEFENDANTS ("REPLY RJN")**

Judge: Honorable Martin J. Jenkins  
Date: July 24, 2007  
Time: 9:30 a.m.  
Courtroom: 11, 19<sup>th</sup> Floor

Pursuant to Federal Rule of Evidence 201, Defendant Terayon Communication Systems, Inc., and Zaki Rakib, Jerry D. Chase, Mark A. Richman, Edward Lopez, Ray Fritz, Carol Lustenader, Matthew Miller, Shlomo Rakib, Doug Sabella, Christopher Schaepe, Mark Slaven, Lewis Solomon, Howard W. Speaks, Arthur T. Taylor, and David Woodrow (the “Individual Defendants”) hereby request the Court to take judicial notice of the content of the following document in support of the Reply Brief in Support of their Motion to Dismiss Plaintiffs’ Amended Class Action Complaint For Violations Of Federal Securities Laws (the “Amended Complaint”):

**Reply RJN**

**Ex. A:**

Terayon’s April 3, 2007 Form 8-K, filed pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Attached hereto is a true and correct copy of the relevant portions.

**I. ARGUMENT**

Judicial notice of the document listed above is appropriate because it was directly referenced or relied upon in the Amended Complaint, was required to be filed with the SEC, and/or its validity is not subject to honest dispute.

**A. Judicial Notice of Documents Required to be Filed with the SEC is Proper.**

Reply Request for Judicial Notice (“RJN”) Exhibit A is a document that Terayon was required to file with the SEC. On a motion to dismiss, the Court may take judicial notice of the contents of required public disclosures. *See In re Turnstone Sys. Sec. Litig.*, No. C 01-1256 SBA, 2003 U.S. Dist. LEXIS 26709, at \*106 (N.D. Cal. Feb. 4, 2003); *In re Calpine Corp. Sec. Litig.*, 288 F. Supp. 2d 1054, 1076 (N.D. Cal. 2003); *In re Silicon Graphics Sec. Litig.*, 970 F. Supp. 746, 758 (N.D. Cal. 1997) (“[A] district court may take judicial notice of the contents of relevant public disclosure documents required to be filed with the SEC as facts capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be

1 questioned.”). Therefore, the Court should take judicial notice of the contents of Reply RJN  
2 Exhibit A.

3 Dated: May 23, 2007

LATHAM & WATKINS LLP

4  
5 By \_\_\_\_\_/s/\_\_\_\_\_  
6 Patrick E. Gibbs

7 Attorneys for Terayon Communication Systems,  
8 Inc. and the Individual Defendants  
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# **EXHIBIT A**

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

**FORM 8-K**

**CURRENT REPORT  
Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): April 2, 2007**

**TERAYON COMMUNICATION SYSTEMS, INC.**

(Exact Name of Registrant as Specified in its Charter)

**Delaware**  
(State or Other Jurisdiction  
of Incorporation)

**000-24647**  
(Commission  
File Number)

**77-0328533**  
(IRS Employer  
Identification No.)

**2450 Walsh Avenue**  
**Santa Clara, California 95051**  
(Address of Principal Executive Offices and Zip Code)

Registrant's telephone number, including area code: **(408) 235-5500**

**Not Applicable**

(Former Name or Former Address, if Changed Since Last Report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 7.01. Regulation FD Disclosure.**

On April 2, 2007, Terayon Communication Systems, Inc. (Terayon) received written notification from the staff of the Securities and Exchange Commission (SEC) that the SEC's investigation in connection with Terayon's accounting review of a series of contractual arrangements with a certain customer has been terminated and no enforcement action has been recommended at this time. The decision of the SEC to terminate the investigation is not a finding or judgment regarding the matters investigated, and should not be construed that the parties have been exonerated or that no action may ultimately result from the SEC's investigation of the matter.

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**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: April 3, 2007

**Terayon Communication Systems, Inc.**

By: /s/ Mark Richman

Name: Mark Richman

Title: Chief Financial Officer

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